

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Scott C. Harris	)
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Appl. No.	:	10/714,096	)
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Filed	:	November 14, 2003	)
			)
For	:	POSITION PRIVACY IN AN	)
		ELECTRONIC DEVICE	)
			)
Examiner	:	D. L Phan	)
			)
Group Art Unit:	:	3662	)
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United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

Applicant's brief on appeal

Sir:

Applicant herewith files this appeal brief under 37 CFR 41.37, thus perfecting the notice of appeal which was originally filed on May 22, 2006. The sections required by rule 41.37 follow.

Real party in interest

The case is not assigned, and hence the inventor Scott C. Harris remains the real party in interest.

### Related appeals and interferences

There are no known related appeals or interferences

### Status of claims

Claims 1-8, 10-17 and 19-42 are pending in the case. Each of these claims are appealed. (Claims 14, 15 and 27-29 are withdrawn from consideration)

### Status of amendments

No amendment was filed after the final official action.

### Summary of claimed subject matter

Claim 1 defines a portable computer with a processor and information detection part in a communication part. Page 9 paragraph 32 describes the GPS computer 600 (the portable computer). A Bluetooth receiver 607 is described in paragraph 34 that can receive local information, and this also describes how the portable computer can receive a plurality of information items that are sent by the location detection part.

In the embodiment, the disclosed device sends the information back to the server, see for example paragraph 44. Paragraphs 44 and 50 describes how the clues

about the environment are compared to a database indicative of position, and how the position information is sent back from the server.

Claim 36 defines sensing information about a local area of the processing element, see for example paragraph 34. Claim 36 defines transmitting the information to a remote processing element, see for example paragraph 44, and describes how the remote processing element processes that information and sends back its position see for example paragraph 50.

Grounds of rejection to be reviewed on appeal

Are claims 1-8, 10-13, 16-17, 19-26 and 30-42 properly rejected based on obviousness-type double patenting, based on claims 1-2 and 4 of US patent number 6,700, 534?

Are claims 1-8, 10-13, 16-17, 19-26 and 30-42 properly rejected as being anticipated by any of Kuzunuki, Neher, Maeda or McMahan?

Argument

Rejection based on obviousness-type double patenting

Claims 1-8, 10-13, 16-17 and 30-42 stand rejected over claims 1-2 and 4 of US patent number 6, 700, 534. This rejection is respectfully traversed.

The consideration should begin with the test for obviousness-type double patenting. The MPEP states the test as being whether claims are patently distinct in the double patenting sense: would the claim in the new application have been an obvious variation of the previous claims?

In this specific instance, 6,700,534 requires a position blocking part that forms false information. This is not defined by or obvious from any of the elected claims in the case. Similarly, claim 2 defines a position blocking part, and claim 4 defines that the information is information from a local transponder. The present claims define FINDING the information, not blocking it. Hence, the present claims teach away from the previous claims, and cannot, in any sense, be considered as obvious variations.

The rejection alleges that the rejection is proper, since the transponder could be used for the position blocking. However, the present claims are directed to sending information to a server. However, the position blocking claims of 6,700,534 are directed to blocking a detection of the position. In contrast, the present claims, like claim 1, are directed towards communicating information to a remote server and determining current position information from that remote server. These are completely different things. Even though information from a transponder is one item of information that could be sent to that remote server, this is wholly different than anything claimed in 6,700,534 who defines a position blocking operation. While both use a transponder, they use them for radically different purposes, and the transponder in the claims of 6,700,534 certainly does not render obvious the claims which are currently being defined.

With all due respect, just because both claims may use similar structure does not render them obvious. The currently rejected claims define sending local information for remote server to determine the position. This is not an obvious variant of the claims in 6,700,534 which define position blocking. In fact, position BLOCKING is the opposite of SENDING information.

Rejections under section 102.

Initially, the official action makes a number of troubling statements. In item 3 of the official action, the rejection states that the features on which applicant relies, specifically 'the information about "the position" is sent to the remote server' is not recited in the rejected claims. As previously stated, the claims clearly do state that the information indicative of the position is going to the remote server. For example, see claim 1 which states that the communication part communicates "said plurality of items of information to a remote server" from which it obtains current position information. The claim as a whole certainly defines that information about the position is sent to the remote server.

In item 4, the position information being based on information from the remote server is virtually an exact quote from the last two lines of claim 1 which states that "which position information is based on said information from said remote server".

The statement that these items are not supported in the claims is respectfully traversed. These statements clearly demonstrate the impropriety of the current rejection.

Claims 1-8, 10-13, 16-17 and 30-42 stand rejected as allegedly being unpatentable over either Kuzunuki or Neher. This contention is respectfully traversed, and for reasons set forth herein, it is respectfully suggested that the rejection misapprehends the scope of the claims and the references, and hence does not provide an appropriate prima facie showing of unpatentability.

Kuzunuki teaches a system where multimedia information is delivered based on various things including position. Admittedly, position is used to determine the delivery of multimedia information. However, this is very different than what is claimed. Claim 1 defines that the portable computer acquires information sensed by the location detection part and communicates it to a remote server. Claim 1 defines that current position information "indicative of the user's current position... is based on said information from said remote server". Accordingly, the sensed information is sent to the remote server. The server sends back position information.

This is very different than what is taught or suggested by Kuzunuki or Neher. Kuzunuki teaches that the position detecting device 10-9 and 10-4 detect the position, and the position is communicated to the information delivery server 50. The information delivery server 50 may use the detected position information, but it does not send "position information... based on said information from said remote server" as claimed.

The information sent by the information server 50 is not "position information" as claimed.

Similarly, Neher does not teach or suggest sending back position information from the remote server. This is perhaps most clear from column 6 paragraph 91 of Neher which states that the location information is reported to the central station. Since the location information itself is reported to the remote server, it stands to reason that it makes no sense for the position information to be sent back "based on information from said remote server" as defined by claim 1.

The dependent claims should be allowable for reasons discussed above with respect to the respective independent claims. Claim 3, for example, specifies the form being XML which is not taught or suggested by the cited prior art. Claim 5 defines that the time since the current information is acquired is one of the items of information; again not taught or suggested by the cited prior art. Claim 6 excludes satellite positioning signals, and all of the cited prior art uses such satellite positioning signals. Claim 7 further defines the operation at the remote, not taught or suggested by the cited prior art. Claim 8 defines the environmental clues which are not suggested by the cited prior art. Claim 10 defines that the visual information is one of those items of information, claim 11 defines sounds as one of the items of information. All of this is completely unsuggested by the cited prior art.

Claim 30 further defines sending information about the local area to the remote server, and returning information indicative of a position of the local area to a client. Both the Kusunuki and/or Neher prior art detects the position locally, rather than

sending information to a remote server as claimed. Hence, Kuzunuki or Neher does not disclose the subject matter of claim 30. This claim should be allowable for reasons discussed above along with the claims that depend therefrom.

Claims 1-8, 10-13, 16-17 and 30-42 stand alternatively rejected based on Maeda or McMahon. These claims are analogously allowable over the cited prior art for similar reasons to those discussed above, and these rejections are respectfully traversed for analogous reasons to those given above. McMahon shows a system in which the ephemeris information is converted into almanac information, see generally column 7 lines 40-53. The mobile terminal still determines its position and reports that position to the remote server. The mobile device does not receive its information about its position from the remote server, as required by the claims such as claim 1. McMahon discloses nothing about "position information ... based on information from said remote server", as claimed, where the position information is based on information from the remote server, as claimed.

Maeda teaches a system in which the terminal unit measures its own location, see column 4, lines 57-58. The positional information, once obtained, is transmitted by the unit 23 see generally column 4 line 61. Nowhere is there any teaching or suggestion of sending the information to a remote server and getting back position information as claimed. Nor is there any teaching or suggestion of the dependent claims. For these reasons, each of the claims should be allowable.

Claim 30 defines this operation even more explicitly, specifically that information about the local area is acquired at the local area, sent to the remote server which

calculates a position of the local area and returns that information to a client in the local area. This is nowhere taught or suggested by the cited prior art, and claim 30 should hence be allowable along with the claims which depend therefrom. Claim 36 should be allowable for analogous reasons. Claims like claim 39 should also be allowable, since they define the environmental clues which are not taught or suggested by the cited prior art.

Therefore, in each of the cited items of prior art, the system determines its information locally: it does not get that position information from the remote server, responsive to local information sent to the remote server. The present claims are hence very different than the cited prior art – and each of these claims should hence be allowable.

The dependent claims should be even further allowable. Claim 8 specifies that the information is environmental clues, nowhere taught or suggested by the cited prior art. Claim 10 defines that the environmental clues are visual information while claim 11 defines that the environmental clues are sounds in the area of the portable computer. Nothing in the cited prior art suggests anything about this.

Similarly, claim 17 defines environmental clues; claim 19 defines those as being visual information, claim 20 defines those as being sounds. Claims 39 also defines environmental clues which is nowhere taught or suggest by the cited prior art.

For all these reasons, the current rejection does not meet the patent office's burden of providing a prima facie showing of unpatentability, and hence should be reversed.

Respectfully submitted,

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Scott C. Harris  
Reg. No. 32,030

Customer No. 23844  
Scott C. Harris, Esq.  
P.O. Box 927649  
San Diego, CA 92192  
Telephone: (619) 823-7778  
Facsimile: (858) 678-5082

## Claims Appendix

1. A system, comprising:  
  
a portable computer having a processor, an information detection part and a communication part, said portable computer acquiring at least a plurality of items of information that are sensed by said location detection part, and said communication part communicating said plurality of items of information to a remote server, and obtaining current position information, indicative of a user's current position, which position information is based on said information from said remote server.
2. A system as in claim 1, wherein said processor controls assembling said plurality of items of information into a form having a specified format, and sending said form to said remote server.
3. A system as in claim 2, wherein said form is in an XML format.
4. A system as in claim 1, wherein said detection part detects an indication of whether current information is being received from a satellite positioning as at least one of said items of information.
5. A system as in claim 4, wherein said detection part detects a time since said current information has been acquired as at least one of said items of information.

6. A system as in claim 1, wherein said items of information does not include satellite positioning signals or information derived from satellite positioning signals.

7. A system as in claim 1, further comprising a computer at said remote server which receives said information, calculates a position based on said information, and returns information indicative of said position to said portable computer.

8. A system as in claim 1, wherein said items of information include at least one item with environmental clues.

10. A system as in claim 8, wherein item with said environmental clues includes visual information that is detected in an area of said portable computer as at least one of said items of information.

11. A system as in claim 8, wherein said item with said environmental clues includes sounds being detected in an area of said portable computer as at least one of said items of information.

12. A system as in claim 1, wherein said portable computer includes a cellular telephone.

13. A system as in claim 12, wherein said detection part detects

information about at least one base station which is communicating with said cellular telephone as at least one of said items of information.

14. (withdrawn) An apparatus, comprising:  
a sensor, which senses information from its current location;  
a transceiver, which transmits said information and receives dynamically changing positioning information based on said information; and  
a processor, which processes said information indicative of the current location based on said dynamically changing positioning information.

15. (withdrawn) An apparatus as in claim 14, wherein at least one of said items of information does not include satellite positioning signals or information derived from satellite positioning signals.

16. A system as in claim 1, further comprising a remote server with a computer which receives said information, calculates a position based on said information, and returns information indicative of said position to said portable computer.

17. A system as in claim 16, wherein said at least one items of information include at least one item with environmental clues.

19. A system as in claim 17, wherein item with said environmental clues includes visual information that is detected in an area of said portable computer as at least one of said items of information.

20. A system as in claim 17, wherein said item with said environmental clues includes sounds being detected in an area of said portable computer as at least one of said items of information.

21. An apparatus as in claim 17, wherein said environmental clues include information on the signature of noise which is being received.

22. An apparatus as in claim 17, wherein said environmental clues include information about which of a plurality of cellular telephone sites are being communicated with.

23. An apparatus as in claim 17, wherein said environmental clues include local sounds.

24. An apparatus as in claim 23, wherein said environmental clues include local visual elements.

25. An apparatus as in claim 24, further comprising a privacy enhancement element, which prevents said transceiver from transmitting said information indicative of current location.

26. An apparatus as in claim 22, wherein said information indicative of a current location is sent as an XML form.

27. (withdrawn) An apparatus, comprising:  
a position location device which obtains information indicative of a current location;  
a memory, which stores location information; and  
a current location storing element, which is selectively actuated to store current location information into said memory;  
a navigation part, operating to allow said apparatus to navigate position based on said information obtained by said position location device; and  
wherein said navigation part allows automatic navigation to a location represented by said information into said memory, stored by actuating said current location storing element.

28. (withdrawn) An apparatus as in claim 27, wherein said navigation part allows automatic navigation to said information into said memory, stored by actuating said current location storing element.

29. (withdrawn) An apparatus as in claim 27, wherein said navigation part is operative to store a current location responsive to a first actuation of said current location storing element, and is operative to navigate to said current location responsive to a second actuation of said current location storing element.

30. A method, comprising:  
acquiring information about a local area, at the local area;  
sending the information over a data channel to a remote server;  
using the information at the remote server, to calculate a position of the local area; and

returning information indicative of the position of the local area, to a client in the local area.

31. A method as in claim 30, wherein said information about the local area includes at least one item of the information which is not satellite positioning information or acquired from satellite positioning information.

32. A method as in claim 31, wherein said at least one item includes environmental clues about the local area.

33. A method as in claim 31, further comprising communicating to a wireless telephone switching network, from said local area.

34. A method as in claim 33, wherein said sending and said returning are carried out over said wireless telephone network.

35. A method as in claim 33, wherein said at least one item includes information from the wireless telephone switching network.

36. A method comprising:  
sensing information about a local area of a local processing element;  
transmit said information to a remote processing element;

in the remote processing element, calculating a position of the local processing element, based on said information, and sending said position to said local processing element; and  
in said local processing element, taking an action based on said position, without calculating said position in said local processing element.

37. A method as in claim 36, wherein said taking an action comprises displaying the position at the local processing element.

38. A method as in claim 36, wherein said information about the local area includes at least one item of the information which is not satellite positioning information or acquired from satellite positioning information.

39. A method as in claim 38, wherein said at least one item includes environmental clues about the local area.

40. A method as in claim 36, further comprising communicating to a wireless telephone switching network, from said local area.

41. A method as in claim 40, wherein said transmit and said returning are carried out over said wireless telephone network.

42. A method as in claim 40, wherein said at least one item includes information from the wireless telephone switching network.

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Evidence Appendix: None

Related Proceedings Appendix: None